

REMARKS

The Office Action dated October 1, 2010 has been received and reviewed. Claims 1 to 14 are pending in the application. Claims 1-14 are rejected.

Claims 1-10 and 14 have been cancelled. Claims 15 to 17 are new. Support for the new claims can be found throughout the Specification, and particularly, the claims as originally filed.

Rejection under 35 USC 112

Claims 7-14 are rejected under 35 USC 112, first paragraph, as failing to comply with the enablement requirement. Claims 7-10 and 14 have been cancelled. Independent claim 11 has been amended to replace the term “preventing” with the term “reducing.” Applicants respectfully submit that the rejection has been overcome.

Claims 1-3 are rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. Applicants have cancelled claims 1 to 3. Applicants respectfully submit that the rejection is moot.

Rejection under 35 USC 101

Claim 6 is rejected under 35 USC 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 USC 101. Claim 6 has been cancelled. Applicants respectfully submit that the rejection is moot.

Rejection under 35 USC 102

Claims 1-2, 4-7 and 10 are rejected under 35 USC 102(b) as being anticipated by Hawtin (GB2338649). Claims 1-10 are also rejected under 35 USC 102(a) as being anticipated by Grap et al (Duration of action of a single, early oral application of chlorhexidine on oral microbial flora in mechanically ventilated patients, XP-002506103). Applicants have cancelled claims 1-10. Applicants respectfully submit that the rejection is moot.

Rejection under 35 USC 103

Claim 1-10 are rejected under 35 USC 103(a) as being unpatentable over Tapolsky et al. (6,290,984) in view of Raad et al. (US20030078242). Applicants have cancelled claims 1-10. Applicants respectfully submit that the rejection is moot.

Claims 11-14 are rejected under 35 USC 103(a) as being unpatentable over Tapolsky et al. (6,290,984) in view of Raad et al. (US 20030078242) and in further view of Siefert (5,035,348). Applicants respectfully disagree.

The Examiner relies on Tapolsky to disclose a non water-soluble pharmaceutical carrier which adheres to mucosal surfaces. The Examiner further relies on Raad to disclose a medical device coated with an antiseptic composition, including chlorhexidine gluconate, for reducing nosocomial infections. The Examiner acknowledges that neither Tapolsky nor Raad disclose a swab with a frangible tip or a hollow handle, and relies on Siefert for that disclosure.

First, Tapolsky discloses a composition that adheres to mucosal tissue, e.g., a gel. A thickened gel such as those taught by Tapolsky would not likely flow into a sponge for dispensing on the patient's mucosa.

Second, Raad's disclosure is directed to a chlorhexidine salt with a dye that is impregnated into the polymer of the tube/catheter.

Siefert does not cure the deficiencies of Tapolsky and Raad. Siefert discloses a cotton swab. A cotton swab would not be considered by one skilled in the art as an effective means to use on mucosal tissue due to its tendency to fragment. Siefert fails to disclose a sponge.

For the reasons discussed above, neither Tapolsky, Raad or Siefert, either alone or in combination, teach or suggest all elements of Applicants' claims. Accordingly, the Applicants respectfully submit that the rejection under 35 USC 103(a) has been overcome.

Claim 1, 3-9, 11-14 are rejected under 35 USC 103(a) as being unpatentable over Houston et al (Effectiveness of 0.12% chlorhexidine gluconate oral rinse in reducing prevalence of nosocomial pneumonia in patients undergoing heart surgery, AJCC) in view of Zygmunt (5,846,215). Applicants have cancelled claims 1 and 3-9. Regarding the rejection of claims 11-14, Applicants respectfully disagree.

The Examiner acknowledges that Houston fails to disclose the swab as claimed by Applicants. However Zygmunt does not cure the deficiencies of Houston. Zygmunt discloses a cotton swab. A cotton swab would not be considered by one skilled in the art as an effective means to use on mucosal tissue due to its tendency to fragment. Zygmunt fails to disclose a sponge.

For the reasons discussed above, neither Houston nor Zygmunt, either alone or in combination, teach or suggest all elements of Applicants' claims. Accordingly, the Applicants respectfully submit that the rejection under 35 USC 103(a) has been overcome.

All outstanding objections and rejections are believed to have been met and overcome. If a telephonic conference with Applicants' undersigned representative would be useful in advancing the prosecution of the present application, the Examiner is invited to contact the undersigned at (651) 733-2180. A notice of allowance for all pending claims is respectfully solicited.

Respectfully submitted,

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